

HONORABLE JAMES L. ROBART

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

MOTOROLA, INC., and MOTOROLA
MOBILITY, INC., and GENERAL
INSTRUMENT CORPORATION,

Defendants.

No. C10-1823-JLR

**SECOND DECLARATION OF
PHILIP S. MCCUNE IN SUPPORT
OF MOTOROLA'S OPENING CLAIM
CONSTRUCTION BRIEF**

HEARING DATE:

June 7, 2012 at 9:00 a.m.

MOTOROLA MOBILITY, INC., and
GENERAL INSTRUMENT
CORPORATION,

Plaintiffs/Counterclaim Defendant,

v.

MICROSOFT CORPORATION,

Defendant/Counterclaim Plaintiff.

**SECOND DECLARATION OF PHILIP S.
MCCUNE IN SUPPORT OF MOTOROLA'S
OPENING CLAIM CONSTRUCTION BRIEF**

SUMMIT LAW GROUP PLLC

315 FIFTH AVENUE SOUTH, SUITE 1000
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1 I, PHILIP S. MCCUNE, hereby declare as follows:

2 1. I am one of the attorneys for Defendants Motorola Mobility, Inc., General
3 Instrument Corporation and Motorola Solutions, Inc. (formerly Motorola, Inc.) (collectively,
4 “Motorola”), in this lawsuit. I make this declaration based on my own personal knowledge.

5 2. I submit this Declaration in support of Motorola’s Opening Claim Construction
6 Brief.

7 3. The exhibits attached to this Declaration are lettered beginning with “BB” to
8 avoid confusion with the exhibits identified in the January 7, 2012 Declaration of Philip S.
9 McCune In Support of Motorola’s and Microsoft’s Joint Claim Chart (Dkt. 158) (“First
10 McCune Declaration”). The exhibits identified in the First McCune Declaration were lettered
11 from “A” through “AA.”

12 4. Attached as Exhibit BB to this Declaration is a true and correct copy of excerpts
13 from the Microsoft Press Computer Dictionary, Third Edition (Bates numbered
14 MOTM_WASH1823_0336226 – 231). These excerpts were referenced in the parties’ Joint
15 Claim Chart (*see* Dkt. 154 at 119, 133-34), but were inadvertently not attached to the parties’
16 Joint Claim Chart or referenced in the First McCune Declaration.

17 5. Attached as Exhibit CC to this Declaration is a true and correct copy of
18 Response to 6/23/99 Office Action, regarding Application Serial No. 08/851,877 (ultimately
19 issued as U.S. Patent No. 6,339,780), (Bates numbered MOTM_ WASH 1823_0050349 –
20 366).

21 6. Attached as Exhibit DD to this Declaration is a true and correct copy of United
22 States Patent No. 5,760,771 (“Blonder”), dated June 2, 1998 (Bates numbered
23 MOTM_WASH1823_0095039 – 0095071).
24
25

**SECOND DECLARATION OF PHILIP S.
MCCUNE IN SUPPORT OF MOTOROLA’S
OPENING CLAIM CONSTRUCTION BRIEF - 1**

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7. Attached as Exhibit EE to this Declaration is a true and correct copy of Notice of Allowance and Fee(s) Due, regarding Application Serial No. 10/989,877 (ultimately issued as U.S. Patent No. 7,411,582), (Bates numbered MS-MOTO_1823_00002246289 – 294).

8. Attached as Exhibit FF to this Declaration is a true and correct copy of United States Patent No. 7,411,582 B2, dated August 12, 2008 (Bates numbered MOTM_WASH1823_0051268 – 0051286), with portions of the specification relevant to the construction of the term “window” highlighted.

9. Attached as Exhibit GG to this Declaration is a true and correct copy of excerpts from the Microsoft Computer Dictionary, Fourth Edition, (Bates numbered MOTM_WASH1823_0402075 – 080).

10. Attached as Exhibit HH to this Declaration is a true and correct copy of applicant's responses to: the Office action mailed August 2, 1999, the Office action mailed May 9, 2009, and the Office action mailed December 20, 2000, regarding Application Serial No. 08/991,277, (Bates numbered MOTM_ WASH 1823_0050068 – 087, MOTM_ WASH 1823_0050101 – 115, and MOTM_ WASH 1823_0050173 – 192).

I declare under penalty of the laws of perjury that the foregoing is true and correct.

EXECUTED this 30th day of March, 2012, at Seattle, Washington.

/s/ Philip S. McCune

Philip S. McCune

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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DATED this 30th day of March, 2012.

/s/ Marcia A. Ripley

Marcia A. Ripley

**SECOND DECLARATION OF PHILIP S.
MCCUNE IN SUPPORT OF MOTOROLA'S
OPENING CLAIM CONSTRUCTION BRIEF - 3**

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